

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

TYSHON MALEKE HARMON,) No. C 10-4053 LHK (PR)
Plaintiff,) ORDER GRANTING MOTION
v.) TO FILE SUPPLEMENTAL
DOCTOR RICHARD MACK, et al.,) COMPLAINT
Defendants.)

Plaintiff, a state prisoner proceeding *pro se*, filed a civil rights complaint pursuant to 42 U.S.C. § 1983 alleging that various Salinas Valley State Prison (“SVSP”) officials violated his constitutional rights. On November 24, 2010, the Court ordered service upon named Defendants. Plaintiff filed a motion for leave to file an amended complaint. A review of the amended complaint reveals that it adds a little more information to the complaint, however, the bulk of factual allegations, as well as all the exhibits remain the same.

An amended complaint filed as a matter of course or after leave of court supersedes the original complaint. “[A] plaintiff waives all causes of action alleged in the original complaint which are not alleged in the amended complaint.” *London v. Coopers & Lybrand*, 644 F.2d 811, 814 (9th Cir. 1981). Thus, if the Court granted Plaintiff’s motion to amend his complaint, the only operative complaint in this action would be the amended complaint.

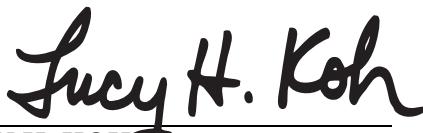
Rather than requiring the Plaintiff to file one complete Second Amended Complaint,

1 encompassing all that is included in both Plaintiff's original complaint and motion to amend the
2 complaint, the Court exercises its discretion and construes Plaintiff's motion as a motion to
3 supplement his complaint under Rule 15(d). *See* Fed. R. Civ. P. 15(d); *cf. Griffin v. County Sch.*
4 *Bd. of Prince Edward County*, 377 U.S. 218, 226 (1964) (supplemental pleading proper where
5 new transactions not new cause of action, but merely part of "same old cause of action"
6 originally raised).

7 So construed, Plaintiff's motion is GRANTED.

8 IT IS SO ORDERED.

9 DATED: 1/31/11


10 LUCY H. KOH
United States District Judge

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